



Voluntary Cleanup Program

Washington State - Department of Ecology - Toxics Cleanup Program

Frequently Asked Questions (FAQs)

1. What guidance is available from Ecology to help me with my cleanup?

Each regional office has a Voluntary Cleanup Program Coordinator available to help you obtain the assistance you need to clean up your site independently. Ecology has some written general guidance material and a consultation program available to provide you assistance tailored specifically for your site.

Ecology may provide you up to one hour of consultation on general or site-specific technical issues without charge. You may request additional assistance, and Ecology will bill you an hourly rate for this time.

Ecology will continue to provide general guidance to explain how to comply with the administrative and technical requirements of the Model Toxics Control Act, without charge. This time will not be applied to your one hour free consultation.

For help, you may contact one of the numbers listed below.

Ecology Northwest regional Office (Counties serving: Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom)

Office Phone: (425) 649-7000 (voice) (425)649-4259 (TDD)

VCP Coordinator: Dan Cargill (425) 649-7023, E-Mail: daca461@ecy.wa.gov

Ecology Southwest Regional Office (Counties serving: Clallum, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, Wahkiakum)

Office Phone: (360) 407-6300 (voice) (360) 407-6306 (TDD)

VCP Coordinator: Charles Cline (360) 407-6267, E-Mail: chcl461@ecy.wa.gov

Ecology Eastern Regional Office (Counties serving: Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend- Orielle, Spokane, Stevens, Walla Walla, Whitman)

Office Phone: (509) 456-2926 (voice) (509) 458-2055 (TDD)

VCP Coordinator: Patti Carter (509) 456-6167, E-Mail: paca461@ecy.wa.gov

Ecology Central Regional Office (Counties serving: Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima)

Office Phone: (509) 575-2490 (voice) (509) 454-7673 (TDD)

VCP Coordinator: Mark Peterschmidt (509) 454-7840, E-Mail: mape461@ecy.wa.gov

2. How do I apply for Ecology consultation?

Submit a Voluntary Cleanup Program Request for Assistance Form #020-74, a Site Summary Form #020-73, and a \$500 deposit to the Ecology regional office where your site is located (as identified



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in question #1). You can obtain these forms by calling the Voluntary Cleanup Program Coordinator for the appropriate regional office or obtain them from the VCP web site.

Neither the deposit nor the request for assistance forms are required for you to obtain assistance on general issues related to how to comply with the state cleanup law or regulations, or for your free one hour consultation on site-specific issues. Just contact the VCP coordinator for this assistance.

3. How long will it take Ecology to begin working on my site once I submit my deposit?

This depends on how many other requests Ecology has received in a particular regional office. Ecology's assistance at voluntary cleanup sites is generally provided on a first-come, first-served basis. If you have specific time constraints, make those known to Ecology as soon as possible so we can help you evaluate whether or not your timing needs can be accommodated.

4. Once Ecology begins working on my site, how long will it take?

This depends on several factors: the complexity of your site, the nature of the assistance needed, the quality and completeness of both the remedial investigation and/or cleanup work you've done, and the information you have submitted. Your request will be handled as rapidly as possible given the above constraints. Your site manager will provide an estimate of the time needed, when sufficient information is available to do so.

5. If I consult with Ecology during my cleanup and follow Ecology's advice, am I guaranteed a No Further Action (NFA) determination? If not, why am I paying you?

If the cleanup meets state cleanup requirements, Ecology may issue a "No Further Action" designation. The assistance provided by Ecology is, by law, non-binding so there is no "guarantee" of an "NFA" determination. In some cases you may be able to receive an "NFA" for the soil but not the groundwater at your site.

6. What does an NFA (No Further Action) determination mean?

An NFA determination means that, based on information provided, Ecology has determined that a release no longer poses a threat to human health or the environment, and at the time of the determination, no further remedial action is necessary. An NFA is tied to a specific release at a



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specific site only. It can be for a specific media (soil, groundwater, surface water, etc.), a specific contaminant (TPH, BTEX, Lead, PCBs, etc.), or for a portion of the site (the area immediately surrounding the underground storage tanks, the northwest ½ acre, etc.). However, since this is not a settlement of liability with the state, Ecology could require additional action at the site in the future if it were to discover new information.

7. If I am buying a property that Ecology has given an NFA designation, do I have to do a Phase 1 or Phase 2 Assessment?

The need to perform Phase 1 and Phase 2 assessments is generally required by lending policies before loans can be made at commercial properties. This requirement is determined by your lender, not Ecology. Even if Ecology has issued an NFA determination for a specific release at a site, a Phase 1 or 2 assessment may still be warranted. For example, the NFA may only be for PCB contamination in the surface layer of the soil, not the entire site. Phase 1 may disclose the fact that underground storage tanks are or were located at the site; Phase 2 can confirm whether or not these tanks have leaked. Ecology recommends that you carefully evaluate the language contained in any NFA letter to make sure it covers all the areas of potential concern you may have as a prospective purchaser of property that has been contaminated.

8. If I pay Ecology to review all my documents and reports, and I do everything Ecology suggests through the end of my cleanup, and I meet all the requirements for a right of contribution action, can I upgrade my NFA designation to a consent decree with a covenant not to sue?

No, Ecology cannot incorporate completed cleanup work into a consent decree. Consent decrees must be negotiated prior to beginning the cleanup.

9. What services does Ecology provide versus those services provided by consultants?

To a point, Ecology will provide you the kind of assistance you need to complete your cleanup. However, there are some kinds of assistance that are better provided by a professional environmental consultant. Ecology recommends that most people work with Ecology through one of these consulting firms. Ecology does not intend to replace these professional consulting services with its consultation program. Ecology generally will limit its work to providing review and comment on any documents you and/or your consultant have produced, and make recommendations or provide



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written opinions. Ecology will also answer any site-specific questions you may have to better ensure that your cleanup will meet state requirements.

10. I am a small business owner with limited capital; can you waive my consultation fee?

The Ecology Toxics Cleanup Program Manager or designee may make a discretionary, non-appealable determination as to whether you are eligible for a waiver of fees based on your ability to pay.

11. The gas station next door leaked gasoline and I know it's under my property; can I clean it up with your help and then make them pay the costs of the cleanup?

It is possible to get a responsible party to pay its share of the cleanup costs. The right to recover cleanup costs from others is known as a "Private Right of Action" or a "Private Right of Contribution". To pursue a Private Right of Action, the individual doing or planning on doing the cleanup usually files a lawsuit and asks the court to:

- Allocate cleanup costs (among those responsible for the contamination) for a completed cleanup or allocate costs before the cleanup begins, and;
- Find that the cleanup is or will be the substantial equivalent of a department-conducted or department-supervised cleanup action.

For more details, and to request Ecology report R-TC-95-137, (Private Right of Action), contact your site manager or visit our WEB page.

12. Does NFA mean that my cleanup meets the "substantial equivalent" requirements in the "right of contribution" section of the law and regulations?

No, the court weighs specific criteria in the following four areas:

- Reporting requirements – Was information about the site and any actions done at the site reported to Ecology?
- Was advance Public Notice provided?
- Did the Department of Ecology concur with the action taken?



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- Were the technical standards and evaluation criteria contained in the Model Toxics Control Act used in determining the cleanup methods used?

13. What if I begin a cleanup and find a huge amount of contamination that would bankrupt me to clean it all up? Can I just quit when I run out of money? Can I just change my mind completely and quit the cleanup? Can Ecology help finance my cleanup?

You may stop an independent cleanup at any time. You can end your request for an Ecology consultation at any time. Any unspent portion of your deposit will be refunded to you at that time. However you remain responsible for cleaning up your property. If Ecology determines that your site poses a threat to human health or the environment, your site will remain on Ecology's database of contaminated sites, and Ecology may issue you a cleanup order that would require you to take specified actions at your site.

Ecology doesn't have the ability to finance your cleanup. There are grants and loans available from agencies other than Ecology for use in funding or partially funding cleanups, in addition, you may qualify for a business loan. (*The Brownfields resource guide will provide possibilities. Ecology Pub #97-608*)

14. What can I do to minimize my costs for financial assistance? What information do you need from me to reduce transaction costs?

You can minimize technical assistance costs by contacting your regional VCP coordinator before you begin performing your investigation and cleanup. By working with Ecology early on, you can focus on collecting the investigation and cleanup information that Ecology needs to make a decision about your site.

15. Do I get to pick the person or the classification of the employee who will be helping me?

Staff will be assigned to your site by the regional Voluntary Cleanup Coordinator based on characteristics and needs of your site, existing workload assignments, and the level of expertise required.

16. If I am willing to pay you overtime, will you finish my review more quickly?



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Generally, Ecology will not reprioritize work based on a responsible party's willingness to pay overtime costs. Ecology has concerns with agreeing to work overtime on consultations. Reviews are supposed to occur on a first-come, first-served basis. If we accept overtime compensation, a person with more resources could advance their position in line by agreeing to pay Ecology more money. This creates a disadvantage for people with less money. We think the playing field should be level for all participants .

17. Since I am paying you, can I limit the number of hours you spend on my site?

You can limit the hours spent on a site to some degree by providing Ecology with good quality information needed to render a decision about your site. If Ecology requests more information, provide it in a timely manner. Keep your site manager informed so that he or she can guide you as efficiently as possible. You cannot, however, limit the time spent on reviewing your cleanup documentation or providing opinions. Ecology is responsible for ensuring that human health and the environment are protected from releases of hazardous substances. Controlling the amount of time we spend to perform our duties is controlling our ability to adequately do our job. Ecology cannot relinquish its responsibility to perform its duties to any other party.

At anytime however, you may end your consultation, and the remainder of your deposit, if any, will be refunded to you.

18. Can I pay a \$500 deposit to hold a spot in line for a review?

Only if you are prepared for Ecology to begin its consultation at your site. Deposits will not be held for planned future needs. Private consulting firms may not purchase multiple spots in line for prospective customers. A request for assistance will be accepted only with the required reports and documentation from a party that is ready to proceed.

19. Is Ecology willing to talk to consultants during its report review?

Yes. Ecology is always willing to discuss site issues with consultants or site owners during the consultation. Ecology will contact responsible parties if it needs additional information.

20. Can you get an NFA if contaminants are left in place?



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Generally you can, but this depends on site-specific circumstances. Ecology must conclude that the cleanup meets the remedy selection criteria in WAC 173-340-360; appropriate institutional controls must be in place; and, restrictive covenants must be recorded with the Registrar of Deeds in the county where the site is located. Ecology has a model restrictive covenant for your use.

21. When can you use institutional controls at an independent cleanup site?

Institutional controls may be used at an independent cleanup site after treatment and other higher technologies are first attempted. Institutional controls should not be used as a substitute for high priority cleanup actions. See WAC 174-340-360. Institutional controls may be used at any site when cleanup actions result in residual concentrations of hazardous substances which exceed the Method A or B cleanup levels, or when conditional points of compliance have been established.

22. If you use institutional controls, do you have to use deed restrictions and restrictive covenants?

Yes. Ecology requires deed restrictions if contamination above cleanup standards is left on-site. Institutional controls include both physical measures (fences, caps, signs, etc.) and legal and administrative measures to ensure the long-term effectiveness of the remedy. When a deed restriction or other form of institutional control is required, restrictive covenants are required. Ecology has a model restrictive covenant for your use.

23. What is the mechanism by which the reported contamination and final cleanup get listed on a deed?

The property owner records a notice with the property deed, including any restrictive covenants, regarding residual contamination above cleanup standards remaining on-site. This is done at the Registrar of Deeds' office in the county where the property is located. The Registrar's office can explain its requirements for filing such notices in records, as the specifics may vary from county to county. The requirements for the contents of a restrictive covenant can be found in WAC 174-340-440(5). Ecology has a model restrictive covenant for your use.

24. What are prepurchase agreements?



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Prospective purchaser or prepurchase agreements are settlements entered into by the state and a person or company who wants to purchase and redevelop contaminated property. They settle a prospective purchaser's liability for the known contamination before the property is purchased. In return, the prospective purchaser provides resources to clean up contamination at the site.

Before the state enters into a prospective purchaser agreement, the state prefers that site conditions be investigated. Then, if Ecology determines it is in the public interest and the prospective purchaser has no ties to the property, Ecology may enter into the legal agreement with the future site owner. The agreements are subject to public review and comment, are entered in court, and must be signed by a judge.

Ecology, in conjunction with the office of the Attorney General, has developed guidance for prospective purchaser agreements. You may receive a copy of Ecology's Interim Prospective Purchaser Policy by contacting the Toxics Cleanup Program at (360) 407-7224 (Voice) or (360) 407-6006 (TDD), or by calling 1 (800) 826-7716.

25. What is a prepayment agreement? Does Ecology prefer to oversee cleanup? Under prepayment agreements or independent cleanups? When would I want to use a technical consultation rather than a prepayment agreement?

A prepayment agreement is an agreement whereby an individual agrees to pay Ecology in advance for its oversight. An agreed amount of money (based on the projected costs of negotiating an agreed order or consent decree) is deposited with Ecology. Since there is a lag from when Ecology performs the work to when the invoices are sent to clients, this deposit is designed to cover the costs during that period, which is why the document is called a prepayment agreement. Each quarter Ecology will invoice you for its costs, and you are obligated to pay those invoices before their due date (generally from 30 to 90 days). The deposit amount stays in Ecology's hands until the agreed order or consent decree has been finalized. At that time, you will be given credit for your deposit and Ecology will continue to bill you quarterly for its costs under the order or decree.

Prepayment agreements may be preferred over independent cleanups under certain circumstances. If you have a simple site and the appropriate cleanup technology is easily identified and implemented, then you may not need much Ecology involvement until your cleanup work is completed. In that case, maintaining an independent cleanup and obtaining an Ecology consultation may better suit your needs. However, if your site is more complex and/or you want Ecology's oversight throughout the cleanup, then the prepayment agreement or formal process would be more appropriate.



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26. What does Ecology prefer -- to work under an agreed order, a consent decree, or to provide consultations/opinions on independent cleanups?

Ecology doesn't have a preference. The decision is based on your personal needs. Ecology can help more people conducting independent cleanups because there is less of a time commitment. However, some larger more complex sites warrant Ecology oversight under an order or consent decree.

For example, if the cleanup has already been conducted or you know how to proceed, then you obviously don't need Ecology's oversight under an order or decree. Ecology could assist you by reviewing your work and providing an opinion about whether or not further action is required.

If you are beginning to investigate a site to find out if it is contaminated, then Ecology could be of assistance in helping you develop your investigation to make sure your scope of work will meet state requirements. Ecology can provide you this assistance if you choose to conduct an independent cleanup or if you wish to have Ecology oversee your cleanup under an agreed order or a consent decree.

27. Is there a time advantage to entering an agreed order as compared to a consent decree?

Yes. It takes less time to enter an agreed order than a consent decree and it takes less time for an Ecology Consultation than either an agreed order or consent decree.

28. How long does it take to negotiate and finalize a consent decree?

A consent decree can take anywhere from 30 days to a year to negotiate, depending on site circumstances, but generally takes 60-90 days. The consent decree must be made available for public review and comment before it can be entered with the court. This takes another 30 days. Keep in mind that the consent decree is a negotiation phase; it identifies the investigation and cleanup work that is to occur, it isn't the cleanup itself.

29. What's the relationship between Ecology providing an opinion about an independent investigation and/or cleanup and SEPA?

They are not directly related. An Ecology investigation provides a review of work planned or performed at a site and provides Ecology's opinion about the work. The State Environmental Policy Act (SEPA) allows the local jurisdiction to require an Environmental Checklist, and possibly



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an Environmental Impact Statement in conjunction with the issuance of any permits needed to perform remedial actions. Mitigation may be required as part of the issuance of the permit. SEPA should be complied with before the cleanup action is started.

30. When do SEPA rules apply to independent cleanup actions? How do SEPA rules affect cleanup costs and schedules?

SEPA applies to independent cleanup actions when there is a necessity to obtain state or local permits/approvals before beginning the independent remedial action. Check with your local planning department.

The completion of the SEPA checklist should not significantly affect either the cleanup costs or schedule unless an Environmental Impact Statement is required. If mitigating activities are required to enhance or protect the environment, then some additional costs may be incurred and adequate time would have to be planned into your cleanup schedule.

If you evaluate your site-specific SEPA requirements early in the cleanup process and build SEPA concerns into your initial remedial design and/or cleanup work, SEPA will have less of an impact on your cleanup costs and schedules.

31. Do property owners have to notify Ecology of property transactions?

Property owners have to notify Ecology of property transactions if they are using institutional controls and a restrictive covenant is recorded with their property deed. Cleanups conducted under an order or decree require notification as part of the long-term care and maintenance of a site.

32. Will Ecology ever rescind an NFA letter?

Since NFA letters are not settlements with the state, Ecology has the authority to require further work at a site (thereby rescinding the NFA). Ecology could require further remediation if, for example, new applicable state or federal laws or policies come into effect; new or different information is discovered other than what was provided in the VCP report; contamination is found that was not addressed in the report; or if institutional controls (including restrictive covenants) are found not to be effective or maintained at the site.

33. If I get an NFA letter from Ecology and contamination is discovered later, am I still liable?



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Yes. I, if you meet the definition of one of the classes of liable persons in the MTCA and you are not entitled to any of the defenses listed in MTCA, you are always liable for the contamination at your site unless you have negotiated a formal liability settlement with the state under a consent decree.

34. If I get an NFA, does that mean my property has a “clean bill of health”?

If Ecology determines that the contamination addressed in the report no longer poses a threat to human health or the environment, then the site can receive an NFA designation for the operable unit or media (soil, groundwater, surface water).

This NFA may or may not apply to the entire site. Additional remedial actions could be required at the site for problems not addressed in the report. If the report addresses the entire site, then the site can be given an NFA for the entire site. This does not necessarily mean that the site is “clean”. It means that, based on the information we were given, no further remedial actions are required at this time.

35. If there are multiple PLPs (Potentially Liable Persons), can one clean up their portion independently and get an NFA letter from Ecology?

Only if that portion of contamination is easily divided from the other contamination at the site. The NFA letter would state that there is no further action required for the specific release. It wouldn't mean that no further action was required of a specific person. You could still be liable for the remaining contamination at the site. Liability is strict, joint, and several. Generally this means that all PLPs are jointly liable for all contamination at the site whether they caused it or not. You would need to have a settlement agreement with the state under a consent decree to resolve your liability for the cleanup needs at the site.

36. If adjoining properties are contaminated and I clean up my property, what protection do I have from liability for the other contamination? What would prevent the other contamination from migrating and recontaminating my site?

Nothing may prevent the migration of the other contamination from recontaminating the area you have cleaned up. If you can show that the contamination migrated onto your property from off site, then you may be able to initiate legal action to have the adjoining property owner clean up the new contamination. If you can clearly show that you have no connection to the new contamination and



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you have exercised utmost care with respect to the contamination and the foreseeable acts or omissions of the party responsible for the release, then Ecology would not hold you liable for the contamination that has migrated onto your site.

37. Will Ecology push multiple PLPs to enter a consent decree to clean up a property?

If the site is one that Ecology is ready to begin work on, then Ecology could encourage all known PLPs to enter into a consent decree, or Ecology could negotiate with one, or a group of the PLPs depending on the circumstances. If Ecology is not ready to begin work on the site, then Ecology would not push the PLPs to enter into a cleanup agreement. The PLP or PLPs would have to request a prepayment agreement with Ecology in order to begin negotiations for a consent decree.

38. How do you balance business with science?

Purchasing and developing contaminated property involves a balancing of many risks—financial, environmental, potential effects on human health and the environment, legal liability, and social pressures. Each business owner must make a risk management decision balancing these risks with potential financial gain from the project. Ecology encourages persons considering purchasing or developing contaminated property to consult with an experienced environmental firm and seek advice from an attorney experienced in this area of the law.

39. Is there any mechanism to ensure conformity between regions, and within a region with regard to Voluntary Cleanup Reviews?

Voluntary Cleanup Program Coordinators meet to discuss report reviews and technical issues to help ensure conformity between and within regions. Regional staff also consult with one another about the sites they are working on. However, professional judgment is often required to make a decision about a remedial action and two different people may make different decisions about a site.

40. Is Ecology going to make its internal policies known to the public?

The Toxics Cleanup Program has always made its internal policies known to the public by providing a notice in the Site Register when a new policy or guidance document is developed. A list of publications is printed annually in the Site Register and is found in an appendix of the Voluntary Cleanup Program Guide (Publication # 97-604). Toxics Cleanup Program policies and procedures



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may be obtained by calling Carol Esget at (360) 407-7224 (voice) or (360) 407-6006 (TDD). They are also available on the Toxics Cleanup Program WEB page.

41. When Ecology makes a decision about a site through the Voluntary Cleanup Program and the site owner is left out, is there an appeals process?

No, there is no formal appeals process. If an owner does not agree with an Ecology decision, the owner may submit additional technical information for Ecology to evaluate. Ecology may reconsider decisions based on this information.

42. Why should someone submit an independent report if Ecology won't review it unless a fee is paid.

Regardless of whether or not you are requesting Ecology consultation, all independent remedial actions must be reported to Ecology within 90 days of their completion. See WAC 173-340-300, Site Discovery and Reporting. If your (non-Lust) cleanup report is submitted with the release report, the cleanup report will be used in making the initial investigation. If no further action is required at that time, your site will not be listed in the Site Information System (SIS) database.

43. How does obtaining an Ecology Consultation at my independent cleanup site help me sell my property?

Many property purchasers request that the environmental status of property be disclosed prior to signing purchase contracts. In addition, lenders often will not loan on potentially contaminated property. As a result, when someone attempts to sell potentially contaminated property, he or she wants to be capable of showing that if there had been a problem at the site, it has since been taken care of. The letter that can be obtained by requesting an Ecology Consultation under the Voluntary Cleanup Program indicates to lenders and purchasers that no further cleanup action is required at a site or a portion of a site. This helps facilitate property transactions for the seller, and can help establish site conditions prior to property transfer.

Property transactions can occur without site owners submitting their cleanup work for Ecology's review. In Washington State, there is no state requirement that a person must have their site evaluated by Ecology before transferring ownership of property.



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- 44. Do you have to have Ecology review your independent cleanup work if you're not comfortable with it?**

No. Ecology consultations are part of our Voluntary Cleanup Program. You are required to submit a report describing your independent remedial actions, but you are not required to submit it for a paid review.

- 45. Who does Ecology use to provide consultations on independent cleanup sites? Do you use experts? Who decides if experts are needed?**

Department of Ecology regional staff provide assistance on independent cleanup sites. The regional VCP Coordinator determines what technical expertise (engineers, hydrologists) is required for your site.

- 46. Can I request technical assistance under the Voluntary Cleanup Program to review my neighbor's cleanup to ensure that it meets the substantive requirements of MTCA?**

Under the Voluntary Cleanup Program, Ecology will provide assistance to the person conducting, or interested in conducting, a cleanup. Ecology will not review another person's report for a neighbor or other party. If you purchase property where a cleanup had been done in the past, Ecology will review the past cleanup work for you because you are the current property owner. If you are a prospective purchaser, you may request that the property owner obtain Ecology review of their cleanup work and submit the results to you as part of your purchase agreement. Ecology will not be involved in negotiating such transactions.

- 47. When selecting a remedy, are persons conducting independent cleanups required to give a preference to permanent solutions?**

For independent cleanup sites, the property owner is responsible for making the determination of how the site is to be cleaned up. Under the state cleanup law, Ecology must give preference to permanent solutions and Ecology will evaluate your independent site work based on this requirement. A permanent solution is an action where the cleanup standards can be met without further action being required at the site or any other site involved in the cleanup action, other than the approved disposal of any residue from treatment.



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For facilities where money is currently not available to conduct a permanent solution immediately, consideration should be given to phasing the remedy and taking the time to allow for budgeting and planning in order to provide a permanent solution.

You should document your analysis of potential remedies and the rationale behind your selection of remedy to provide Ecology a justification if the most permanent remedy was not selected.

The MTCA cleanup regulation provides a discussion of cleanup costs as relative to environmental protection, “substantial and disproportionate”. Please refer to WAC 173-340-360(5)(d)(vi).

48. Is the cleanup standard the same for VCP sites as it is for Ecology oversight sites?

Yes. MTCA does not establish different cleanup standards for Voluntary Cleanup Program sites. The standard of review is the same--the remedial action must be protective of human health and the environment, and must comply with the Model Toxics Control Act Cleanup Regulation, Ch 173-340 WAC, including:

- State remedial investigation and feasibility study (Section 350)
- Selection of cleanup actions (Section 360)
- Compliance Monitoring (Section 410)
- Interim Actions (Section 430)
- Institutional Controls (Section 440)
- Releases from Underground Storage Tanks (Section 450)
- Cleanup Standards (Sections 700-760)
- General Provisions (Sections 810-850)

49. How do you determine that you have a contamination problem?

There are two ways to answer this question depending on which of the two following scenarios are applicable to your particular circumstances: 1) You own property or wish to purchase property, but you have no direct knowledge of whether or not a release ever occurred at the property; or, 2) You know you have had a release of a hazardous substance, but don't know if it poses a problem and requires a cleanup.

Scenario One:

If you are trying to determine if a release could have ever occurred at your site, there are standard Phase 1 Environmental Site Assessment protocols that can be used to identify



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whether or not historic site uses are consistent with potential contamination problems. Property title searches, surrounding land uses, and interviews help identify potential concerns. If Phase 1 indicates that a past land use or an adjacent property's land use could have caused a release of contamination at the site, then a Phase 2 Site Assessment is conducted.

The Phase 2 Environmental Site Assessment includes a sampling and analysis of soils and possibly groundwater in specifically targeted areas to determine if contamination is present. If contamination is discovered, then a more detailed investigation is planned to determine the nature and extent of the contamination and to determine appropriate cleanup methodologies.

Scenario Two:

You have had a release of hazardous substances on your property and you want to know if it poses a threat to human health or the environment and requires remedial action. Generally Ecology recommends that you use an environmental consulting firm to design a site investigation plan. Soil and possibly groundwater sampling will be required to identify the nature and extent of contamination. This information will be used to determine if you have a contamination problem

50. Can Ecology provide legal advice?

No. Ecology staff are not qualified to provide legal advice. The purpose of Ecology's consulting program is to provide assistance with the technical issues related to the investigation and cleanup of sites contaminated with hazardous substances.

51. Is there any monetary assistance available to help me clean up my site?

Ecology has grant money available to help local governments that are conducting cleanups. Please refer to the *Interim Remedial Action Grant Guidelines, 1997-99*, Ecology Publication #97-504. It is available on the internet at <http://www.wa.gov/ecology/swfa/ra/interim.htm>

You may contact Steve Loftness at (360) 407-6060 for help in evaluating the amount of money available to help you clean up your site.



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In addition, there is a federal tax incentive for cleanups in Brownfield areas. More information is available in the *Brownfields Resource Guide*, it is available on the internet at <http://www.wa.gov/ECOLOGY/tcp/brownfld/bf.html>

52. What is the brownfields federal tax incentive?

Under federal law, persons conducting cleanups in “targeted areas” can now deduct their cleanup expenses on their federal income tax returns.

A “targeted area” means at least one of the following:

- An EPA Brownfields Pilot area designated prior to February, 1997
- Census tracts where 20% or more of the population is below the poverty level
- Census tracts that have a population under 2,000, have 75% or more of their tract zoned for industrial or commercial use, and are adjacent to one or more census tracts with a poverty rate of 20% or more
- Any federal Empowerment Zone or Enterprise Community

For more information about federal brownfields issues, please visit the US EPA Brownfields page at <http://www.epa.gov/swerosps/bf/index.html>.

If you would like help determining if you qualify for the federal tax exemption call your regional VCP Coordinator.